No. Draft 38

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JAMES I

SUPREME COURT OF THE UNIT

Filed Oct. 15, 1900

MICHAEL W. O'BRIEN et al.,
Executors,
Complainants and Appellants,

vs.

JOHN G. WHEELOCK, et al.,
Defendants.

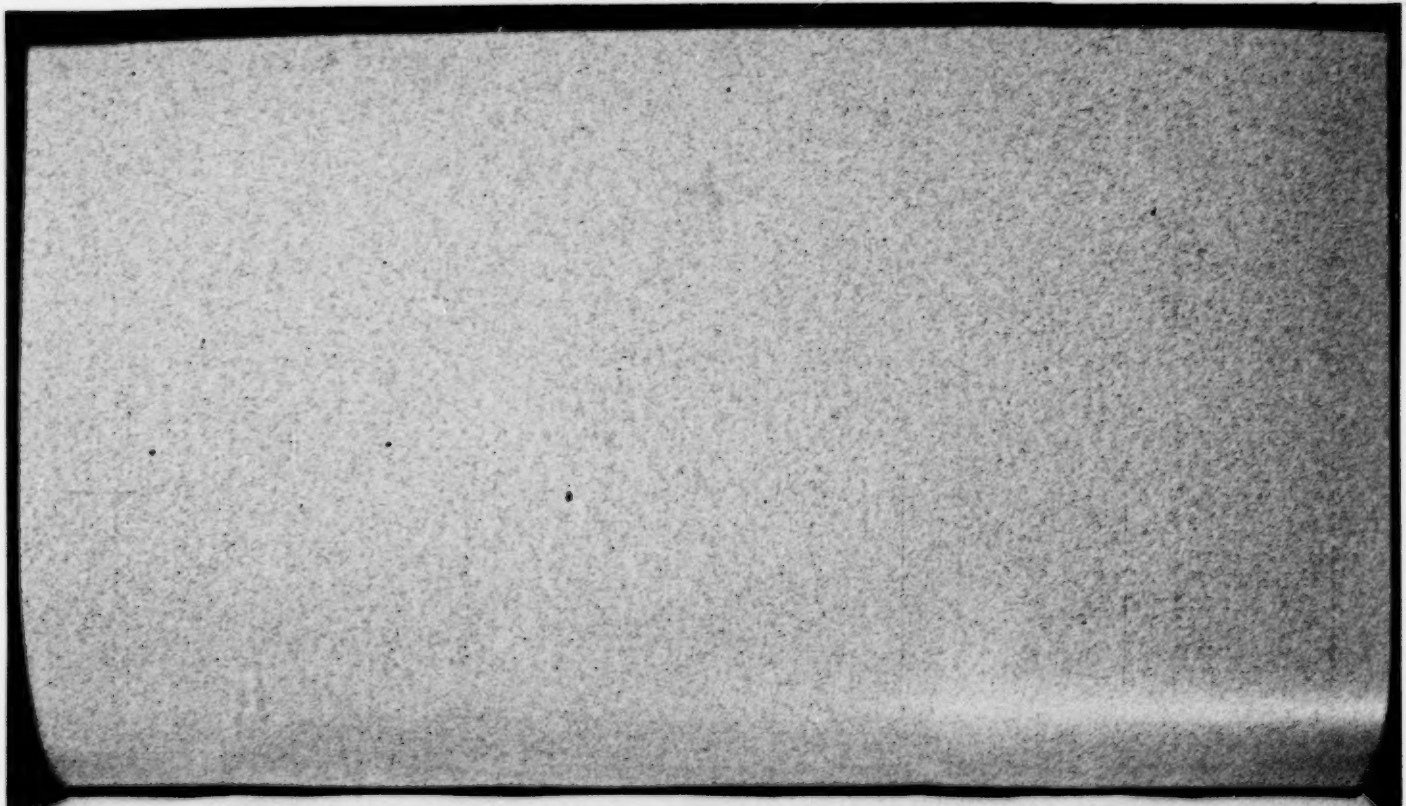
No. 241. October term, 1900.
Certiorari to the United States Circuit Court of Appeals for the 7th Circuit.

MOTION AND BRIEF IN SUPPORT THEREOF, FOR LEAVE TO FILE PRINTED TRANSCRIPTS OF THE RECORD IN THIS CAUSE IN THE UNITED STATES CIRCUIT COURT OF APPEALS, IN LIEU OF REPRINTING THE ENTIRE RECORD IN THIS COURT.

HENRY M. DUFFIELD,
Counsel for Complainants and Appellants.

BENJAMIN HARRISON,
Counsel for Appellees.

DETROIT:
Record Printing Co., Free Press Bldg., 11 and 13 Lafayette Ave.
1900.



SUPREME COURT OF THE UNITED STATES.

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And now come said complainants and appellants, by Henry M. Duffield, their counsel, and under the stipulation of counsel in this cause move the Court for an order permitting the filing with the clerk of this Court of five printed copies of the record in the Circuit Court of Appeals in addition to the eleven copies now on file, in lieu of reprinting the entire record in this Court, for the following reasons:

Because the printing thereof in this Court under the peculiar circumstances of this case is unnecessary and improvident.

This motion is based upon the record in this cause and the stipulation of counsel, and the letter of Mr. Benjamin Harrison, of counsel for defendants-appellees, hereto annexed.

HENRY M. DUFFIELD,
Counsel for Complainants and appellants.

SUPREME COURT OF THE UNITED STATES.

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Appellants,
vs.
JOHN G. WHEELOCK, et al.,
Appellees.

No. 241. October Term,
A. D. 1900.

In this cause it is stipulated between the parties hereto, by their respective counsel, that they respectively consent that the cause may be submitted upon filing with the clerk of this Court five printed copies of the record in the Circuit Court of Appeals in addition to the eleven copies now on file. Counsel for appellees further state that they are now each supplied with a copy of the transcript of the record furnished them by the clerk of the Circuit Court of Appeals, and they each consent that said copies will be accepted by them in lieu of a copy to be furnished by the clerk of this Court.

Dated this 15th day of August, A. D. 1900.

BENJ. HARRISON,
THOS. WORTHINGTON,
H. G. CRAWFORD,
HARRY HIGBEE,
Counsel for Appellees.

HENRY M. DUFFIELD,
Counsel for Appellants.

Berkeley Lodge, Old Forge P. O., N. Y.,

Aug. 16, 1900.

Thomas Worthington, Esq.,
Jacksonville, Ill.

My Dear Sir:

I have received your letter of the 14th with the inclosures. I have signed the stipulation and return it with this. It does seem, counsel agreeing, that the Court ought to be willing to make this order, as it will result in no possible inconvenience to the judges, or to the counsel, and will save to the losing party a very large sum of money. You may send this letter or a copy of it to General Duffield, if he cares to use it in his application to the Court.

Very truly yours,

BENJ. HARRISON.

BRIEF IN SUPPORT OF MOTION.

Eleven complete printed transcripts of the record in the United States Circuit Court of Appeals, which conform in size and typography with the requirements of the rules of this honorable court for records printed herein were filed with the application to this court for a writ of certiorari.

Each of the counsel for the defendants has a similar printed copy of said transcript of record, and each of them, together with the counsel for appellants, has stipulated in writing for the granting of this motion.

The clerk of the court has sent to counsel for the appellants a statement under Rule 10, of the amount of money necessary for printing the record and the clerk's costs in this case at the sum of one thousand and seventy dollars ($1,070.00).

The printed record called for under this statement would be an exact and complete copy of the printed transcript of record from the U. S. Circuit Court of Appeals and would contain nothing in addition except the writ of certiorari and the return thereto which, as permitted under the practice of this court, is in this case a stipulation of counsel that the transcript of record from the Circuit Court of Appeals filed with the petition for certiorari may be treated as return to said writ. With the additional five copies of the record there will be on file in this Honorable Court sixteen copies for the exclusive use of the Court, counsel for all parties having stipulated that the copy of said transcript which they now have will be accepted by them in lieu of a copy to be furnished by the clerk of this court.

As counsel understand the practice of this court, these sixteen copies will be all that will be needed for the use of the court in this case, inasmuch as the stipulation of counsel waives their right to call upon the clerk for an additional copy.

The printing of the writ of certiorari and the stipulation of counsel which constitutes a return thereto, if deemed necessary, would involve very little expense and could be neatly and conveniently attached to the transcript of record in the United States Circuit Court of Appeals.

As stated in the letter of General Harrison, the granting of the order applied for "will result in no possible inconvenience to the judges or to the counsel and will save to the losing party a very large sum of money."

HENRY M. DUFFIELD,
Of Counsel for Complainants and Appellants.